



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/700,798	11/03/2003	Glen Van Datta	450133-04863.1	6261
20/999 7590 08/06/2008 FROMMER LAWRENCE & HAUG 745 FIFTH AVENUE- 10TH FL. NEW YORK, NY 10151				
EXAMINER				
OSMAN, RAMY M				
ART UNIT		PAPER NUMBER		
2157				
MAIL DATE		DELIVERY MODE		
08/06/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/700,798

Applicant(s)

DATTA ET AL.

Examiner

RAMY M. OSMAN

Art Unit

2157

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 April 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 24-44 and 53 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 24-44 and 53 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Status of Claims

1. This action is responsive to amendment filed on April 11, 2008 August 2, 2007, where Applicant amended claims 34,35,53. Claims 24-44 and 53 are pending.

Response to Arguments

2. Objections to the specification and claims are withdrawn.
3. Applicant's arguments filed 4/11/2008 have been fully considered but they are not persuasive.
4. Applicant argues that Ramanathan does not teach "*the probing peer sends a message with the new connection so another receives the message and can maintain the updated P2P grid*".

In reply, it is noted that the features upon which applicant relies (i.e., *the probing peer sends a message with the new connection so another receives the message and can maintain the updated P2P grid*) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

5. Applicant argues that Ramanathan does not teach "*the probing peer receives a negative response from a member peer*".

In reply, the claim recites wherein the response is "positive or negative". Use of the alternative "or" within the claim renders the claim broad wherein only one of the two elements are to be shown as anticipated by the prior art. In this case the "positive response" is the anticipated element.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. **Claims 24-44,53 rejected under 35 U.S.C. 102(e) as being anticipated by**

Ramanathan et al (US Patent No 7,174,382).

8. In reference to claim 24, Ramanathan teaches a method of adding a peer system to a peer-to-peer relay network, comprising:

opening a connection between a server and a joining peer system (column 6 lines 2-3);

providing grid information to said joining peer system indicating one or more established peer-to-peer relay networks (column 6 lines 3-6);

receiving a grid selection from said joining peer system indicating a selected peer-to-peer relay network, wherein said selected peer-to-peer relay network has one or more member peer systems (column 6 lines 7-15);

providing network addresses of each of said one or more member peer systems to said joining peer system (column 6 lines 59-65); and

receiving a connection update from said joining peer system indicating to which member peer systems said joining peer system is connected (column 6 lines 63-67);

wherein each member peer system is connected to a number of other member peer systems that is less than or equal to a connection limit and each member peer system stores a set of one or more relay rules for relaying data to the other member peer systems connected to that member peer system (column 6 lines 38-53).

9. In reference to claim 25, Ramanathan teaches the method of claim 24, further comprising: opening a connection between said server and an establishing peer system, wherein the establishing peer system is one of said member peer systems (column 6 lines 2-15); receiving a request to create said peer-to-peer relay network from said establishing peer system (column 6 lines 7-15); registering said peer-to-peer relay network in storage; and sending a creation confirmation to said establishing peer system (column 6 lines 59-67).

10. In reference to claim 26, Ramanathan teaches a method of joining a peer-to-peer relay network, comprising:

sending a join message from a joining peer system to each of one or more member peer systems in a peer-to-peer relay network (column 6 lines 20-30);

receiving a join response from at least one of said one or more member peer systems, wherein each join response is positive or negative (column 6 lines 59-62), and a positive join response indicates the sending member peer system has an available connection (column 6 lines 35-45) and a negative join response indicates the sending member peer system does not have an available connection (column 6 lines 50-55);

selecting one or more member peer systems up to a connection limit according to a set of one or more connection rules (column 6 lines 38-53);

opening a connection with each selected member peer system (column 6 line 62);

wherein each member peer system is connected to a number of other member peer systems that is less than or equal to said connection limit and each member peer system stores a set of one or more relay rules for relaying data to the other member peer systems connected to that member peer system (column 6 lines 38-53).

11. In reference to claim 27, Ramanathan teaches the method of claim 26, wherein: a member peer system has an available connection if the member peer system has a number of open connections to other member peer systems that is less than said connection limit (column 6 lines 39-43).

12. In reference to claim 28, Ramanathan teaches the method of claim 26, wherein: selecting one or more member peer systems includes storing a response time for each received join response (column 6 lines 26-28).

13. In reference to claim 29, Ramanathan teaches the method of claim 26, wherein: selecting one or more member peer systems includes: selecting the member peer system from which the positive join response that is received first by said joining peer system (column 6 lines 29-35), and selecting the member peer system from which the positive join response that is received last by said joining peer system within a time limit (column 6 lines 26-28).

14. In reference to claim 30, Ramanathan teaches the method of claim 29, wherein: selecting one or more member peer systems includes substantially randomly selecting additional member peer systems up to said connection limit from among the remaining unselected member peer systems from which positive joint response have been received (column 6 lines 39-43).

15. In reference to claim 31, Ramanathan teaches the method of claim 29, wherein: selecting one or more member peer systems includes selecting additional member peer systems up to said connection limit from among the remaining unselected member peer systems from which positive joint response have been received in the order in which the positive joint responses were received (column 6 lines 39-43).

16. In reference to claim 32, Ramanathan teaches the method of claim 26, wherein: selecting one or more member peer systems includes: selecting a member peer system from which a negative join response has been received as a force connection peer system (column 6 lines 50-51); sending a force connection request to said force connection peer system, wherein said force connection request requests that said force connection peer system close one of the open connections of said force connection peer system (column 6 lines 51-57); and receiving a force connection confirmation from said force connection peer system (column 6 lines 57-59).

17. In reference to claim 33, Ramanathan teaches the method of claim 32, wherein: selecting said force connection peer system includes applying said set of one or more connection rules to the member peer systems that sent negative join responses (column 6 lines 59-67).

18. In reference to claim 34, Ramanathan teaches the method of claim 26, further comprising: opening a connection between a server and said joining peer system (column 6 lines 2-3); receiving grid information at said joining peer system indicating one or more established peer-to-peer relay networks (column 6 lines 3-6); sending a grid selection from said joining peer system to said server indicating a selected peer-to-peer relay network, wherein said selected peer-to-peer relay network has one or more member peer systems (column 6 lines 7-15); receiving network addresses of each of said one or more member peer systems at said joining

peer system (column 6 lines 59-65); and sending a connection update from said joining peer system indicating to which member peer systems said joining peer system is connected (column 6 lines 63-67).

19. In reference to claim 35, Ramanathan teaches a method of establishing a peer-to-peer relay network, comprising:

opening a connection between said server and an establishing peer system, wherein the establishing peer system is one of said member peer systems (column 6 lines 2-3);

sending a request to create said peer-to-peer relay network from said establishing peer system to said server (column 6 lines 7-15);

receiving a creation confirmation at said establishing peer system from said server (column 6 lines 59-60);

wherein said establishing peer system stores a connection limit defining a number of other peer systems up to which said establishing peer system is permitted to connect, and said establishing peer system stores a set of one or more relay rules for relaying data to other peer systems connected to said establishing peer system (column 6 lines 35-45).

20. In reference to claim 36, Ramanathan teaches a method of connecting peer systems in a peer-to-peer relay network, comprising:

sending a connection available message from a disconnected peer system to one or more member peer systems in a peer-to-peer relay network when said disconnected peer system has a number of open connections to member systems that is less than a connection limit (column 6 lines 35-49);

receiving a connection available response from at least one of said one or more member peer systems, wherein each connection available response is positive or negative, and a positive join response indicates the sending member peer system has an available connection and a negative join response indicates the sending member peer system does not have an available connection (column 6 lines 35-49);

selecting a member peer system according to a set of one or more connection rules (column 6 lines 7-15);

opening a connection with said selected member peer system; wherein each member peer system is connected to a number of other member peer systems that is less than or equal to said connection limit and each member peer system stores a set of one or more relay rules for relaying data to the other member peer systems connected to that member peer system (column 6 lines 35-49).

21. In reference to claim 37, Ramanathan teaches the method of claim 36, further comprising: closing a connection by said disconnected peer system (column 6 lines 44-49).

22. In reference to claim 38, Ramanathan teaches the method of claim 36, wherein: a member peer system has an available connection if the member peer system has a number of open connections to other member peer systems that is less than said connection limit (column 6 lines 35-44).

23. In reference to claim 39, Ramanathan teaches the method of claim 36, wherein: selecting a member peer system includes storing a response time for each received connection available response (column 6 lines 21-30).

24. In reference to claim 40, Ramanathan teaches the method of claim 36, wherein: selecting a member peer systems includes selecting the member peer system from which the positive connection available response that is received first by said disconnected peer system (column 6 lines 38-45).

25. In reference to claim 41, Ramanathan teaches the method of claim 36, wherein: selecting a member peer systems includes not selecting a member peer system from which said disconnected peer system has disconnected within a disconnection time period (column 6 lines 50-56).

26. In reference to claim 42, Ramanathan teaches the method of claim 36, wherein: selecting a member peer systems includes: selecting a member peer system from which a negative connection available response has been received as a force connection peer system (column 6 lines 50-51); sending a force connection request to said force connection peer system, wherein said force connection request requests that said force connection peer system close one of the open connections of said force connection peer system (column 6 lines 51-57); and receiving a force connection confirmation from said force connection peer system (column 6 lines 57-59).

27. In reference to claim 43, Ramanathan teaches the method of claim 42, wherein: selecting said force connection peer system includes applying said set of one or more connection rules to the member peer systems that sent negative connection available responses (column 6 lines 59-67).

28. In reference to claim 44, Ramanathan teaches the method of claim 36, further comprising: sending an update to a server indicating a connection has been opened between said disconnected peer system and said selected member peer system (column 6 lines 59-67).

29. In reference to claim 53, Ramanathan teaches a computer program, stored on a tangible storage medium, for use in a peer system for a peer-to-peer relay network, the program comprising executable instructions that cause a computer to:

relay data to any other peer systems connected to said peer system in a peer-to-peer relay network (column 5 lines 49-50); establish a peer-to-peer relay network (column 5 line 48); join a peer-to-peer relay network (column 6 lines 59-64); connect to another peer system in a peer-to-peer relay network (column 6 lines 59-67); maintain a peer-to-peer relay network (column 6 lines 59-64); and disconnect from another peer system connected to said peer system in a peer-to-peer relay network (column 7 lines 1-6).

Conclusion

30. The above rejections are based upon the broadest reasonable interpretation of the claims. Applicant is advised that the above specified citations of the relied upon prior art are only representative of the teachings of the prior art, and that any other supportive sections within the entirety of the reference (including any figures, incorporation by references, claims and priority documents) is implied as being applied to teach the scope of the claims.

31. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RAMY M. OSMAN whose telephone number is (571)272-4008. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ramy M Osman/
Examiner, Art Unit 2157

/Ario Etienne/
Supervisory Patent Examiner, Art Unit 2157